

## **REMARKS**

Applicant replies to the final Office Action dated January 19, 2010, within three months. Claims 1 – 4 and 7 – 8 were pending in the application. The Examiner rejects claims 1 – 4 and 7 – 8. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by the amendments. Reconsideration of this application is respectfully requested.

The Examiner rejects claims 1-2 and 7-8 under 35 USC 103(a) as being obvious over Park, US Patent Publication 2004/0114474 (“Park 1”) in view of Park, US Patent Publication 2004/0223440 A1 (“Park 2”). The Examiner next rejects claims 3-4 under 35 USC 103(a) as being obvious over Park 1 and Park 2 in view of Hwang, US Patent No. 5,825,726 (“Hwang”). Applicant respectfully disagrees, but Applicant amends certain claims and adds new claims to expedite prosecution and to clarify the claims.

The Examiner states that Park 1 discloses a drive apparatus for performing a pseudo-overwrite recording on a write-once medium. The medium includes a spare area and a user data area. The drive apparatus includes a recording/reproduction section and a drive control section. The drive control section receives instructions to record data at a location where data has already been recorded, and controls the recording/reproduction section to record at a replacement location in the user data section.

The Examiner further states that Park 2 discloses a drive apparatus wherein the drive control section determines whether the recording in the replacement location in the user data section succeeded, and controls the recording/reproduction section to record the data in the spare area if the recording failed.

Applicants assert that the Examiner has not identified in the cited references a disclosure of the step of "determining a track...corresponding to the location included in the recording instruction", as similarly recited in claims 1 and 7. In fact, Applicants similarly amend claims 1 and 7 to further highlight this element by specifying that the process of recording in a location other than the instructed location is triggered by information about the determined track.

In particular, amended claim 1 now recites, *inter alia*:

"...determining a track...corresponding to the location included in the recording instruction;

when the determined track is a closed track or when the location included in the recording instruction is before the next writable address of the determined track, the process performed by the drive control section further includes:

\_\_\_\_\_ controlling the recording/reproduction section to record data at a replacement location...;

\_\_\_\_\_ determining whether or not the recording...has succeeded; and

\_\_\_\_\_ when the recording...has failed, controlling the recording/reproduction section to record...."

Support for this amendment can be found at least on page 32, line 16 to page 33, line 1; page 52, line 22 to page 54, line 6; and Figure 8A.

The advantage of, determining a track corresponding to the location included in the recording instruction, and then recording in a replacement location when the determined track is closed or when the instructed address is less than the next writable address of the determined track, is that data is recorded on the write-once recording medium using a pseudo-overwrite process (recorded in a replacement location) when necessary. Such necessity can be determined by simple tests based on inherent track information, particularly that the track is closed or that the instructed location is before the next writable address, either of which indicates that the instructed location is not recordable.

This advantage is possible due to the characteristics of tracks according to the claimed invention, in that the characteristics establish a section of the user data area which is sequentially recorded, and that can be referred to as a single unit in the management information (see the original specification at, for example, page 31, line 3 to page 33, line 12),

Applicants assert that Park 1 does not disclose or contemplate a process of determining a track corresponding to the location included in the recording instruction, or recording in a location other than the instructed location in response to specific information about the

determined track. In particular, in Park 1, the **entire user data area is treated as a single track**. Therefore, Park 1 cannot disclose or contemplate that data is recorded in a replacement location in the user data area from the instructed location when the determined track is a closed track, since a closed track in Park 1 would be equivalent to not being able to record further in the user data area. As such, **Park 1 teaches away and literally destroys the functionality of the claimed invention.**

In addition, Park 1 cannot disclose or contemplate that data is recorded in a different location from the instructed location when the instructed location is before the next writable address, because the **user data area does not have an associated next writable address** in Park 1. In Park 1, previously recorded areas in the user data area are identified by setting an associated bit in the management information and data is not necessarily recorded sequentially, so concluding that data must be recorded in a replacement location based on the next writable address for a determined track is not possible. **Park 1 again teaches away and literally destroys the functionality of the claimed invention.**

Park 2 is limited to storing and recovering defect management information by transferring data from a defective area to a spare area, but fails to disclose or contemplate that data is recorded in a location other than an instructed location in response to information associated with a determined track, specifically that the track is closed or that the instructed location is before the next writable address, as recited in claims 1 and 7. As such, Park 2 does not cure the deficiencies of Park 1.

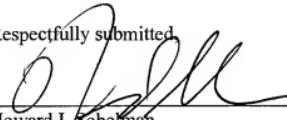
Hwang is limited to recording and reproducing a multi-session compact disc, but Hwang similarly fails to disclose or contemplate recording data in a location other than an instructed location when a determined track is closed or when the instructed location is before the next writable address in the determined track. Therefore, Park 2 and Hwang do not make up for the deficiencies of Park 1.

Claims 2-4 and 8 depend from claims 1 and 7, respectively, so Applicants assert that claims 2-4 and 8 are patentable for the same reasons as set forth above, in addition to their own respective features.

In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as the invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. Should the Examiner have any suggestions to place the application in even better condition for allowance, Applicant requests that the Examiner contact the undersigned representative at the telephone number listed below. The Commissioner is authorized to charge any fees due or refund any overpayment to Deposit Account No. 19-2814, including extension of time fees, if needed.

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Respectfully submitted

  
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